

A bill for an act

relating to public safety; modifying provisions governing public hearings and public access to juvenile records; authorizing the expungement of certain juvenile records; authorizing the commissioner of human services to grant set asides or variances for certain individuals disqualified from licensure because of an offense committed as a juvenile; requiring chemical use screen of juvenile offenders; requiring the revisor of statutes to publish a table in Minnesota Statutes containing cross-references to collateral sanctions imposed on juveniles as a result of an adjudication of delinquency; clarifying detention placement options for extended jurisdiction juveniles pending revocation hearings; modifying certain provisions regarding juvenile delinquency to include stays of adjudication of delinquency; extending the duration of the continuance period allowed in a juvenile delinquency matter; amending Minnesota Statutes 2008, sections 241.31, subdivision 1; 242.32, subdivision 2; 260B.125, subdivision 4; 260B.130, subdivision 5; 260B.157, subdivision 1; 260B.163, subdivision 1; 260B.171, subdivisions 4, 5; 260B.176, subdivision 2; 260B.198, subdivision 7; 299C.105, subdivision 1; 299C.61, subdivision 8a; 609.117, subdivision 1; 609A.02, subdivision 2; 609A.03, subdivisions 1, 2, 4, 5, 5a, 7; 624.713, subdivision 3; Minnesota Statutes 2009 Supplement, sections 245C.24, subdivision 2; 624.713, subdivision 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 241.31, subdivision 1, is amended to read:

Subdivision 1. **Establishment of program.** Notwithstanding any provisions of Minnesota Statutes to the contrary, any city, county or town, or any nonprofit corporation approved by the commissioner of corrections, or any combination thereof may establish and operate a community corrections program for the purpose of providing housing, supervision, treatment, counseling or other correctional services;

(a) to persons convicted of crime in the courts of this state and placed on probation by such courts pursuant to section 609.135;

(b) to persons not yet convicted of a crime but under criminal accusation who voluntarily accept such treatment;

(c) to persons adjudicated a delinquent or who received a stay of adjudication of delinquency under chapter 260 or chapter 260B;

(d) with the approval of the commissioner of corrections, to persons paroled under chapter 242; and

(e) with the approval of the commissioner of corrections, to persons paroled under section 243.05 or released under section 241.26.

Sec. 2. Minnesota Statutes 2008, section 242.32, subdivision 2, is amended to read:

Subd. 2. **Secure placement of juvenile offenders.** The commissioner shall license several small regional facilities providing secure capacity programming for juveniles who have been adjudicated delinquent, have received a stay of adjudication of delinquency, or have been convicted as extended jurisdiction juveniles and require secure placement. The programming shall be tailored to the types of juveniles being served, including their offense history, age, gender, cultural and ethnic heritage, mental health and chemical dependency problems, and other characteristics. Services offered shall include but not be limited to:

(1) intensive general educational programs, with an individual educational plan for each juvenile;

(2) specific educational components in the management of anger and nonviolent conflict resolution;

(3) treatment for chemical dependency;

(4) mental health screening, assessment, and treatment; and

(5) programming to educate offenders about sexuality and address issues specific to victims and perpetrators of sexual abuse.

The facilities shall collaborate with facilities providing nonsecure residential programming and with community-based aftercare programs.

Sec. 3. Minnesota Statutes 2009 Supplement, section 245C.24, subdivision 2, is amended to read:

Subd. 2. **Permanent bar to set aside a disqualification.** (a) Except as otherwise provided in ~~paragraph (b)~~ this subdivision, the commissioner may not set aside the disqualification of any individual disqualified pursuant to this chapter, regardless of how much time has passed, if the individual was disqualified for a crime or conduct listed in section 245C.15, subdivision 1.

(b) For an individual in the chemical dependency or corrections field who was disqualified for a crime or conduct listed under section 245C.15, subdivision 1, and whose disqualification was set aside prior to July 1, 2005, the commissioner must consider granting a variance pursuant to section 245C.30 for the license holder for a program dealing primarily with adults. A request for reconsideration evaluated under this paragraph must include a letter of recommendation from the license holder that was subject to the prior set-aside decision addressing the individual's quality of care to children or vulnerable adults and the circumstances of the individual's departure from that service.

(c) When a licensed foster care provider adopts an individual who had received foster care services from the provider for over six months, and the adopted individual is required to receive a background study under section 245C.03, subdivision 1, paragraph (a), clause (2) or (6), the commissioner may grant a variance to the license holder under section 245C.30 to permit the adopted individual with a permanent disqualification to remain affiliated with the license holder under the conditions of the variance when the variance is recommended by the county of responsibility for each of the remaining individuals in placement in the home and the licensing agency for the home.

(d) The commissioner shall consider granting a set aside under section 245C.22 or a variance under section 245C.30 to an individual who is now 21 years of age or older and who was disqualified for a crime or conduct listed under section 245C.15, subdivision 1, occurring while the individual was under the age of 18. This paragraph does not apply to individuals who were convicted of the disqualifying crime following certification under section 260B.125.

Sec. 4. Minnesota Statutes 2008, section 260B.125, subdivision 4, is amended to read:

Subd. 4. **Public safety.** In determining whether the public safety is served by certifying the matter, the court shall consider the following factors:

(1) the seriousness of the alleged offense in terms of community protection, including the existence of any aggravating factors recognized by the Sentencing Guidelines, the use of a firearm, and the impact on any victim;

(2) the culpability of the child in committing the alleged offense, including the level of the child's participation in planning and carrying out the offense and the existence of any mitigating factors recognized by the Sentencing Guidelines;

(3) the child's prior record of delinquency, including adjudications of delinquency and delinquency petitions that resulted in stays of adjudication of delinquency;

(4) the child's programming history, including the child's past willingness to participate meaningfully in available programming;

(5) the adequacy of the punishment or programming available in the juvenile justice system; and

(6) the dispositional options available for the child.

In considering these factors, the court shall give greater weight to the seriousness of the alleged offense and the child's prior record of delinquency, including adjudications of delinquency and delinquency petitions that resulted in stays of adjudication of delinquency, than to the other factors listed in this subdivision.

Sec. 5. Minnesota Statutes 2008, section 260B.130, subdivision 5, is amended to read:

Subd. 5. **Execution of adult sentence.** (a) When it appears that a person convicted as an extended jurisdiction juvenile has violated the conditions of the stayed sentence, or is alleged to have committed a new offense, the court may, without notice, revoke the stay and probation and direct that the offender be taken into immediate custody. The court shall notify the offender in writing of the reasons alleged to exist for revocation of the stay of execution of the adult sentence. If the offender challenges the reasons, the court shall hold a summary hearing on the issue at which the offender is entitled to be heard and represented by counsel.

(b) If a person described in paragraph (a) is taken into custody, the person may be detained in a secure juvenile detention facility. If there is no secure juvenile detention facility or existing acceptable detention alternative available for juveniles within the county, the child may be detained up to 24 hours, excluding Saturdays, Sundays, and holidays, or for up to six hours in a standard metropolitan statistical area, in a jail, lockup, or other facility used for the confinement of adults who have been charged with or convicted of a crime. In this instance, the person must be confined in quarters separate from any adult confined in the facility that allow for complete sight and sound separation for all activities during the period of the detention, and the adult facility must be approved for the detention of juveniles by the commissioner of corrections.

If the person is 18 years of age or older and is to be detained prior to the revocation hearing, the person may be detained in a local adult correctional facility without the need for sight and sound separation.

(c) After the hearing, if the court finds that reasons exist to revoke the stay of execution of sentence, the court shall treat the offender as an adult and order any of the adult sanctions authorized by section 609.14, subdivision 3, except that no credit shall be given for time served in juvenile facility custody prior to a summary hearing. If the offender was convicted of an offense described in subdivision 1, clause (2), and the court finds that reasons exist to revoke the stay, the court must order execution of the previously

imposed sentence unless the court makes written findings regarding the mitigating factors that justify continuing the stay.

(d) Upon revocation, the offender's extended jurisdiction status is terminated and juvenile court jurisdiction is terminated. The ongoing jurisdiction for any adult sanction, other than commitment to the commissioner of corrections, is with the adult court.

Sec. 6. Minnesota Statutes 2008, section 260B.157, subdivision 1, is amended to read:

Subdivision 1. **Investigation.** Upon request of the court the local social services agency or probation officer shall investigate the personal and family history and environment of any minor coming within the jurisdiction of the court under section 260B.101 and shall report its findings to the court. The court may order any minor coming within its jurisdiction to be examined by a duly qualified physician, psychiatrist, or psychologist appointed by the court.

The court shall order a chemical use assessment conducted when a child is (1) found to be delinquent for violating a provision of chapter 152, or for committing a felony-level violation of a provision of chapter 609 if the probation officer determines that alcohol or drug use was a contributing factor in the commission of the offense, or (2) alleged to be delinquent for violating a provision of chapter 152, if the child is being held in custody under a detention order. The assessor's qualifications and the assessment criteria shall comply with Minnesota Rules, parts 9530.6600 to 9530.6655. If funds under chapter 254B are to be used to pay for the recommended treatment, the assessment and placement must comply with all provisions of Minnesota Rules, parts 9530.6600 to 9530.6655 and 9530.7000 to 9530.7030. The commissioner of human services shall reimburse the court for the cost of the chemical use assessment, up to a maximum of \$100.

The court shall order a children's mental health screening and a chemical use screening conducted when a child is found to be delinquent. The screening shall be conducted with a screening instrument approved by the commissioner of human services and shall be conducted by a mental health practitioner as defined in section 245.4871, subdivision 26, or a probation officer who is trained in the use of the screening instrument. If the screening indicates a need for a mental health assessment, the local social services agency, in consultation with the child's family, shall have a diagnostic assessment conducted, including a functional assessment, as defined in section 245.4871. If the screening indicates a need for a chemical use assessment, the local social service agency, in consultation with the child's family, shall have a chemical use assessment conducted, as defined in section 254A.03, subdivision 3.

With the consent of the commissioner of corrections and agreement of the county to pay the costs thereof, the court may, by order, place a minor coming within its jurisdiction in an institution maintained by the commissioner for the detention, diagnosis, custody and treatment of persons adjudicated to be delinquent or who received a stay of adjudication of delinquency, in order that the condition of the minor be given due consideration in the disposition of the case. Any funds received under the provisions of this subdivision shall not cancel until the end of the fiscal year immediately following the fiscal year in which the funds were received. The funds are available for use by the commissioner of corrections during that period and are hereby appropriated annually to the commissioner of corrections as reimbursement of the costs of providing these services to the juvenile courts.

Sec. 7. Minnesota Statutes 2008, section 260B.163, subdivision 1, is amended to read:

Subdivision 1. **General.** (a) Except for hearings arising under section 260B.425, hearings on any matter shall be without a jury and may be conducted in an informal manner, except that a child who is prosecuted as an extended jurisdiction juvenile has the right to a jury trial on the issue of guilt. The rules of evidence promulgated pursuant to section 480.0591 and the law of evidence shall apply in adjudicatory proceedings involving a child alleged to be delinquent, an extended jurisdiction juvenile, or a juvenile petty offender, and hearings conducted pursuant to section 260B.125 except to the extent that the rules themselves provide that they do not apply.

(b) When a continuance or adjournment is ordered in any proceeding, the court may make any interim orders as it deems in the best interests of the minor in accordance with the provisions of sections 260B.001 to 260B.421.

(c) Except as otherwise provided in this paragraph, the court shall exclude the general public from hearings under this chapter and shall admit only those persons who, in the discretion of the court, have a direct interest in the case or in the work of the court. The court shall permit the victim of a child's delinquent act to attend any related delinquency proceeding, except that the court may exclude the victim:

(1) as a witness under the Rules of Criminal Procedure; and

(2) from portions of a certification hearing to discuss psychological material or other evidence that would not be accessible to the public.

The court shall open ~~the hearings~~ a hearing to the public in a delinquency or extended jurisdiction juvenile ~~proceedings where~~ proceeding if the child is alleged to have committed ~~an offense~~ or has been proven to have committed ~~an~~ a violent or severe offense that would be a felony if committed by an adult and the child was at least 16 years of age at the time of the offense, except that the court may exclude the public from

portions of a certification hearing to discuss psychological material or other evidence that would not be accessible to the public in an adult proceeding.

(d) In all delinquency cases a person named in the charging clause of the petition as a person directly damaged in person or property shall be entitled, upon request, to be notified by the court administrator in writing, at the named person's last known address, of (1) the date of the certification or adjudicatory hearings, and (2) the disposition of the case.

Sec. 8. Minnesota Statutes 2008, section 260B.171, subdivision 4, is amended to read:

Subd. 4. **Public inspection of records.** (a) Legal records arising from proceedings or portions of proceedings that ~~are~~ the court opens to the public under section 260B.163, subdivision 1, are open to public inspection.

(b) Except as otherwise provided by this section, none of the records of the juvenile court and none of the records relating to an appeal from a nonpublic juvenile court proceeding, except the written appellate opinion, shall be open to public inspection or their contents disclosed except:

(1) by order of a court; or

(2) as required by chapter 245C or sections 245A.04, 611A.03, 611A.04, 611A.06, and 629.73.

(c) The victim of any alleged delinquent act may, upon the victim's request, obtain the following information, unless it reasonably appears that the request is prompted by a desire on the part of the requester to engage in unlawful activities:

(1) the name and age of the juvenile;

(2) the act for which the juvenile was petitioned and date of the offense; and

(3) the disposition, including, but not limited to, dismissal of the petition, diversion, probation and conditions of probation, detention, fines, or restitution.

(d) The records of juvenile probation officers and county home schools are records of the court for the purposes of this subdivision. Court services data relating to delinquent acts that are contained in records of the juvenile court may be released as allowed under section 13.84, subdivision 6. This subdivision applies to all proceedings under this chapter, including appeals from orders of the juvenile court, except that this subdivision does not apply to proceedings under section 260B.335 or 260B.425 when the proceeding involves an adult defendant. The court shall maintain the confidentiality of adoption files and records in accordance with the provisions of laws relating to adoptions. In juvenile court proceedings any report or social history furnished to the court shall be open to inspection by the attorneys of record and the guardian ad litem a reasonable time before it is used in connection with any proceeding before the court.

(e) When a judge of a juvenile court, or duly authorized agent of the court, determines under a proceeding under this chapter that a child has violated a state or local law, ordinance, or regulation pertaining to the operation of a motor vehicle on streets and highways, except parking violations, the judge or agent shall immediately report the violation to the commissioner of public safety. The report must be made on a form provided by the Department of Public Safety and must contain the information required under section 169.95.

(f) A county attorney may give a law enforcement agency that referred a delinquency matter to the county attorney a summary of the results of that referral, including the details of any juvenile court disposition.

Sec. 9. Minnesota Statutes 2008, section 260B.171, subdivision 5, is amended to read:

Subd. 5. **Peace officer records of children.** (a) Except for records relating to an offense where the court opens the proceedings ~~are to the public~~ under section 260B.163, subdivision 1, Peace officers' records of children who are or may be delinquent or who may be engaged in criminal acts shall be kept separate from records of persons 18 years of age or older and are private data but shall be disseminated: (1) by order of the juvenile court, (2) as required by section 121A.28, (3) as authorized under section 13.82, subdivision 2, (4) to the child or the child's parent or guardian unless disclosure of a record would interfere with an ongoing investigation, (5) to the Minnesota crime victims reparations board as required by section 611A.56, subdivision 2, clause (6), for the purpose of processing claims for crime victims reparations, or (6) as otherwise provided in this subdivision. Except as provided in paragraph (c), no photographs of a child taken into custody may be taken without the consent of the juvenile court unless the child is alleged to have violated section 169A.20. Peace officers' records containing data about children who are victims of crimes or witnesses to crimes must be administered consistent with section 13.82, subdivisions 2, 3, 6, and 17. Any person violating any of the provisions of this subdivision shall be guilty of a misdemeanor.

In the case of computerized records maintained about juveniles by peace officers, the requirement of this subdivision that records about juveniles must be kept separate from adult records does not mean that a law enforcement agency must keep its records concerning juveniles on a separate computer system. Law enforcement agencies may keep juvenile records on the same computer as adult records and may use a common index to access both juvenile and adult records so long as the agency has in place procedures that keep juvenile records in a separate place in computer storage and that comply with the special data retention and other requirements associated with protecting data on juveniles.

(b) Nothing in this subdivision prohibits the exchange of information by law enforcement agencies if the exchanged information is pertinent and necessary for law enforcement purposes.

(c) A photograph may be taken of a child taken into custody pursuant to section 260B.175, subdivision 1, clause (b), provided that the photograph must be destroyed when the child reaches the age of 19 years. The commissioner of corrections may photograph juveniles whose legal custody is transferred to the commissioner. Photographs of juveniles authorized by this paragraph may be used only for institution management purposes, case supervision by parole agents, and to assist law enforcement agencies to apprehend juvenile offenders. The commissioner shall maintain photographs of juveniles in the same manner as juvenile court records and names under this section.

(d) Traffic investigation reports are open to inspection by a person who has sustained physical harm or economic loss as a result of the traffic accident. Identifying information on juveniles who are parties to traffic accidents may be disclosed as authorized under section 13.82, subdivision 6, and accident reports required under section 169.09 may be released under section 169.09, subdivision 13, unless the information would identify a juvenile who was taken into custody or who is suspected of committing an offense that would be a crime if committed by an adult, or would associate a juvenile with the offense, and the offense is not an adult court traffic offense under section 260B.225.

(e) The head of a law enforcement agency or a person specifically given the duty by the head of the law enforcement agency shall notify the superintendent or chief administrative officer of a juvenile's school of an incident occurring within the agency's jurisdiction if:

(1) the agency has probable cause to believe that the juvenile has committed an offense that would be a crime if committed as an adult, that the victim of the offense is a student or staff member of the school, and that notice to the school is reasonably necessary for the protection of the victim; or

(2) the agency has probable cause to believe that the juvenile has committed an offense described in subdivision 3, paragraph (a), clauses (1) to (3), that would be a crime if committed by an adult, regardless of whether the victim is a student or staff member of the school.

A law enforcement agency is not required to notify the school under this paragraph if the agency determines that notice would jeopardize an ongoing investigation. For purposes of this paragraph, "school" means a public or private elementary, middle, secondary, or charter school.

(f) In any county in which the county attorney operates or authorizes the operation of a juvenile prepetition or pretrial diversion program, a law enforcement agency or county attorney's office may provide the juvenile diversion program with data concerning a juvenile who is a participant in or is being considered for participation in the program.

(g) Upon request of a local social services agency, peace officer records of children who are or may be delinquent or who may be engaged in criminal acts may be disseminated to the agency to promote the best interests of the subject of the data.

(h) Upon written request, the prosecuting authority shall release investigative data collected by a law enforcement agency to the victim of a criminal act or alleged criminal act or to the victim's legal representative, except as otherwise provided by this paragraph. Data shall not be released if:

(1) the release to the individual subject of the data would be prohibited under section 13.821; or

(2) the prosecuting authority reasonably believes:

(i) that the release of that data will interfere with the investigation; or

(ii) that the request is prompted by a desire on the part of the requester to engage in unlawful activities.

(i) A consent to the release of a peace officer record governed by this subdivision from the individual who is the subject of the record is not effective and a law enforcement agency must not release the record or release information in a manner that reveals the existence of the record.

Sec. 10. Minnesota Statutes 2008, section 260B.176, subdivision 2, is amended to read:

Subd. 2. **Reasons for detention.** (a) If the child is not released as provided in subdivision 1, the person taking the child into custody shall notify the court as soon as possible of the detention of the child and the reasons for detention.

(b) No child may be detained in a juvenile secure detention facility or shelter care facility longer than 36 hours, excluding Saturdays, Sundays, and holidays, after being taken into custody for a delinquent act as defined in section 260B.007, subdivision 6, unless a petition has been filed and the judge or referee determines pursuant to section 260B.178 that the child shall remain in detention.

(c) No child may be detained in an adult jail or municipal lockup longer than 24 hours, excluding Saturdays, Sundays, and holidays, or longer than six hours in an adult jail or municipal lockup in a standard metropolitan statistical area, after being taken into custody for a delinquent act as defined in section 260B.007, subdivision 6, unless:

(1) a petition has been filed under section 260B.141; and

(2) a judge or referee has determined under section 260B.178 that the child shall remain in detention.

After August 1, 1991, no child described in this paragraph may be detained in an adult jail or municipal lockup longer than 24 hours, excluding Saturdays, Sundays, and holidays, or longer than six hours in an adult jail or municipal lockup in a standard metropolitan statistical area, unless the requirements of this paragraph have been met and, in addition, a motion to refer the child for adult prosecution has been made under section 260B.125. Notwithstanding this paragraph, continued detention of a child in an adult detention facility outside of a standard metropolitan statistical area county is permissible if:

(i) the facility in which the child is detained is located where conditions of distance to be traveled or other ground transportation do not allow for court appearances within 24 hours. A delay not to exceed 48 hours may be made under this clause; or

(ii) the facility is located where conditions of safety exist. Time for an appearance may be delayed until 24 hours after the time that conditions allow for reasonably safe travel. "Conditions of safety" include adverse life-threatening weather conditions that do not allow for reasonably safe travel.

The continued detention of a child under clause (i) or (ii) must be reported to the commissioner of corrections.

(d) If a child described in paragraph (c) is to be detained in a jail beyond 24 hours, excluding Saturdays, Sundays, and holidays, the judge or referee, in accordance with rules and procedures established by the commissioner of corrections, shall notify the commissioner of the place of the detention and the reasons therefor. The commissioner shall thereupon assist the court in the relocation of the child in an appropriate juvenile secure detention facility or approved jail within the county or elsewhere in the state, or in determining suitable alternatives. The commissioner shall direct that a child detained in a jail be detained after eight days from and including the date of the original detention order in an approved juvenile secure detention facility with the approval of the administrative authority of the facility. If the court refers the matter to the prosecuting authority pursuant to section 260B.125, notice to the commissioner shall not be required.

(e) When a child is detained for an alleged delinquent act in a state licensed juvenile facility or program, or when a child is detained in an adult jail or municipal lockup as provided in paragraph (c), the supervisor of the facility shall, if the child's parent or legal guardian consents, have a children's mental health screening conducted with a screening instrument approved by the commissioner of human services, unless a screening has been performed within the previous 180 days or the child is currently under the care of a mental health professional. The screening shall be conducted by a mental health practitioner

12.1 as defined in section 245.4871, subdivision 26, or a probation officer who is trained in
12.2 the use of the screening instrument. The screening shall be conducted after the initial
12.3 detention hearing has been held and the court has ordered the child continued in detention.
12.4 The results of the screening may only be presented to the court at the dispositional phase
12.5 of the court proceedings on the matter unless the parent or legal guardian consents to
12.6 presentation at a different time. If the screening indicates a need for assessment, the
12.7 local social services agency or probation officer, with the approval of the child's parent
12.8 or legal guardian, shall have a diagnostic assessment conducted, including a functional
12.9 assessment, as defined in section 245.4871.

12.10 (f) When a child is detained for an alleged delinquent act in a state licensed juvenile
12.11 facility or program, or when a child is detained in an adult jail or municipal lockup as
12.12 provided in paragraph (c), the supervisor of the facility shall, if the child's parent or legal
12.13 guardian consents, have a chemical use screen conducted with a screening instrument
12.14 approved by the commissioner of human services, unless a screening has been performed
12.15 within the previous 180 days or the child is currently under the care of a licensed alcohol
12.16 and drug counselor. The screening shall be conducted by a mental health practitioner as
12.17 defined in section 245.4871, subdivision 26, or a probation officer who is trained in the use
12.18 of the screening instrument. The screening shall be conducted after the initial detention
12.19 hearing has been held and the court has ordered the child continued in detention.

12.20 Sec. 11. Minnesota Statutes 2008, section 260B.198, subdivision 7, is amended to read:

12.21 Subd. 7. **Continuance.** When it is in the best interests of the child and public safety
12.22 to do so and when the child has admitted the allegations contained in the petition before
12.23 the judge or referee, or when a hearing has been held as provided for in section 260B.163
12.24 and the allegations contained in the petition have been duly proven but, in either case,
12.25 before a finding of delinquency has been entered, the court may stay the adjudication of
12.26 delinquency and continue the case for a period not to exceed ~~90~~ 180 days on any one
12.27 order. With the consent of the prosecutor, such a continuance may be extended renewed
12.28 ~~for one additional successive~~ a period not to exceed 90 days extend beyond the child's
12.29 19th birthday and only after the court has reviewed the case and entered its order for an
12.30 additional continuance without a finding of delinquency. During ~~this~~ either continuance
12.31 the court may enter an order in accordance with the provisions of subdivision 1, ~~clause (1)~~
12.32 ~~or (2)~~, or enter an order to hold the child in detention for a period not to exceed 15 days on
12.33 any one order for the purpose of completing any consideration, or any investigation or
12.34 examination ordered in accordance with the provisions of section 260B.157. The court
12.35 shall not stay adjudication on any felony offense if the child has previously received a

13.1 stay of adjudication of delinquency by a court in any judicial district. This subdivision
13.2 does not apply to an extended jurisdiction juvenile proceeding. In calculating an adult
13.3 criminal history score, a stay of adjudication for a felony-level offense ordered by the
13.4 court pursuant to this subdivision shall be counted as an adjudication by the Minnesota
13.5 Sentencing Guidelines Commission.

13.6 Sec. 12. Minnesota Statutes 2008, section 299C.105, subdivision 1, is amended to read:

13.7 Subdivision 1. **Required collection of biological specimen for DNA testing.** (a)
13.8 Sheriffs, peace officers, and community corrections agencies operating secure juvenile
13.9 detention facilities shall take or cause to be taken biological specimens for the purpose of
13.10 DNA analysis as defined in section 299C.155, of the following:

13.11 (1) persons who have appeared in court and have had a judicial probable cause
13.12 determination on a charge of committing, or persons having been convicted of or
13.13 attempting to commit, any of the following:

- 13.14 (i) murder under section 609.185, 609.19, or 609.195;
- 13.15 (ii) manslaughter under section 609.20 or 609.205;
- 13.16 (iii) assault under section 609.221, 609.222, or 609.223;
- 13.17 (iv) robbery under section 609.24 or aggravated robbery under section 609.245;
- 13.18 (v) kidnapping under section 609.25;
- 13.19 (vi) false imprisonment under section 609.255;
- 13.20 (vii) criminal sexual conduct under section 609.342, 609.343, 609.344, 609.345,
- 13.21 609.3451, subdivision 3, or 609.3453;
- 13.22 (viii) incest under section 609.365;
- 13.23 (ix) burglary under section 609.582, subdivision 1; or
- 13.24 (x) indecent exposure under section 617.23, subdivision 3;

13.25 (2) persons sentenced as patterned sex offenders under section 609.3455, subdivision
13.26 3a; or

13.27 (3) juveniles who have appeared in court and have had a judicial probable cause
13.28 determination on a charge of committing, ~~or~~ juveniles having been adjudicated delinquent,
13.29 or juveniles who have received a stay of adjudication of delinquency for committing or
13.30 attempting to commit, any of the following:

- 13.31 (i) murder under section 609.185, 609.19, or 609.195;
- 13.32 (ii) manslaughter under section 609.20 or 609.205;
- 13.33 (iii) assault under section 609.221, 609.222, or 609.223;
- 13.34 (iv) robbery under section 609.24 or aggravated robbery under section 609.245;
- 13.35 (v) kidnapping under section 609.25;

- 14.1 (vi) false imprisonment under section 609.255;
- 14.2 (vii) criminal sexual conduct under section 609.342, 609.343, 609.344, 609.345,
- 14.3 609.3451, subdivision 3, or 609.3453;
- 14.4 (viii) incest under section 609.365;
- 14.5 (ix) burglary under section 609.582, subdivision 1; or
- 14.6 (x) indecent exposure under section 617.23, subdivision 3.

14.7 (b) Unless the superintendent of the bureau requires a shorter period, within 72 hours

14.8 the biological specimen required under paragraph (a) must be forwarded to the bureau in

14.9 such a manner as may be prescribed by the superintendent.

14.10 (c) Prosecutors, courts, and probation officers shall attempt to ensure that the

14.11 biological specimen is taken on a person described in paragraph (a).

14.12 Sec. 13. Minnesota Statutes 2008, section 299C.61, subdivision 8a, is amended to read:

14.13 Subd. 8a. **Conviction.** "Conviction" means a criminal conviction or an adjudication

14.14 of delinquency or a stay of adjudication of delinquency for an offense that would be a

14.15 crime if committed by an adult.

14.16 Sec. 14. Minnesota Statutes 2008, section 609.117, subdivision 1, is amended to read:

14.17 Subdivision 1. **Upon sentencing.** If an offender has not already done so, the court

14.18 shall order an offender to provide a biological specimen for the purpose of DNA analysis

14.19 as defined in section 299C.155 when:

14.20 (1) the court sentences a person charged with committing or attempting to commit

14.21 a felony offense and the person is convicted of that offense or of any offense arising

14.22 out of the same set of circumstances; or

14.23 (2) the juvenile court ~~adjudicates a person a delinquent child who is petitioned for~~

14.24 ~~committing or attempting to commit a felony offense and is adjudicated delinquent for~~

14.25 ~~that offense or any offense arising out of the same set of circumstances~~ finds that a child

14.26 who was petitioned for committing or attempting to commit a felony offense did commit

14.27 that offense or any offense arising out of the same set of circumstances.

14.28 The biological specimen or the results of the analysis shall be maintained by the Bureau of

14.29 Criminal Apprehension as provided in section 299C.155.

14.30 Sec. 15. Minnesota Statutes 2008, section 609A.02, subdivision 2, is amended to read:

14.31 Subd. 2. **Offenses committed by juveniles prosecuted as adults.** A petition for

14.32 the sealing of ~~a conviction record~~ any type of delinquency or criminal record relating to a

14.33 juvenile matter may be filed under section 609A.03 by a person who has ~~been committed~~

15.1 ~~to the custody of the commissioner of corrections upon conviction of a crime following~~
15.2 ~~certification to district court under section 260B.125, if the person~~ successfully completed
15.3 the terms of the person's disposition or sentence and who is no longer under correctional
15.4 supervision for the offense, if:

15.5 (1) ~~is finally discharged by the commissioner; or~~ the person received a disposition
15.6 under section 260B.198, regardless of whether the person was adjudicated delinquent;

15.7 (2) ~~has been placed on probation by the court under section 609.135 and has been~~
15.8 ~~discharged from probation after satisfactory fulfillment of it~~ the matter was designated
15.9 an extended jurisdiction juvenile prosecution under section 260B.130 and the person's
15.10 adult sentence was never executed;

15.11 (3) the matter was designated an extended jurisdiction juvenile prosecution under
15.12 section 260B.130 and the person's adult sentence was subsequently executed; or

15.13 (4) the matter was certified for adult prosecution under section 260B.125.

15.14 Sec. 16. Minnesota Statutes 2008, section 609A.03, subdivision 1, is amended to read:

15.15 Subdivision 1. **Petition; filing fee.** An individual who is the subject of a criminal
15.16 record who is seeking the expungement of the record shall file a petition under this section
15.17 and pay a filing fee in the amount required under section 357.021, subdivision 2, clause
15.18 (1). The filing fee may be waived in cases of indigency and shall be waived in the cases
15.19 described in section 609A.02, subdivision 2, clause (1) or (2), and subdivision 3.

15.20 Sec. 17. Minnesota Statutes 2008, section 609A.03, subdivision 2, is amended to read:

15.21 Subd. 2. **Contents of petition.** (a) A petition for expungement shall be signed under
15.22 oath by the petitioner and shall state the following:

15.23 (1) the petitioner's full name and all other legal names or aliases by which the
15.24 petitioner has been known at any time;

15.25 (2) the petitioner's date of birth;

15.26 (3) all of the petitioner's addresses from the date of the offense or alleged offense in
15.27 connection with which an expungement order is sought, to the date of the petition;

15.28 (4) why expungement is sought, if it is for employment or licensure purposes, the
15.29 statutory or other legal authority under which it is sought, and why it should be granted;

15.30 (5) the details of the offense or arrest for which expungement is sought, including
15.31 the date and jurisdiction of the occurrence, either the names of any victims or that there
15.32 were no identifiable victims, whether there is a current order for protection, restraining
15.33 order, or other no contact order prohibiting the petitioner from contacting the victims or
15.34 whether there has ever been a prior order for protection or restraining order prohibiting the

16.1 petitioner from contacting the victims, the court file number, and the date of conviction
16.2 or of dismissal;

16.3 (6) in the case of a conviction or delinquency record, what steps the petitioner has
16.4 taken since the time of the offense toward personal rehabilitation, including treatment,
16.5 work, or other personal history that demonstrates rehabilitation;

16.6 (7) petitioner's criminal conviction and delinquency record indicating all convictions
16.7 and findings of delinquency for misdemeanors, gross misdemeanors, or felonies in this
16.8 state, and for all comparable convictions and findings of delinquency in any other state,
16.9 federal court, or foreign country, whether the convictions or findings of delinquency
16.10 occurred before or after the arrest ~~or~~ conviction, or finding of delinquency for which
16.11 expungement is sought;

16.12 (8) petitioner's criminal charges record indicating all prior and pending criminal
16.13 charges against the petitioner in this state or another jurisdiction, including all criminal
16.14 charges that have been continued for dismissal or stayed for adjudication, or have been the
16.15 subject of pretrial diversion; and

16.16 (9) all prior requests by the petitioner, whether for the present offense or for any
16.17 other offenses, in this state or any other state or federal court, for pardon, return of arrest
16.18 records, or expungement or sealing of a criminal record, whether granted or not, and all
16.19 stays of adjudication or imposition of sentence involving the petitioner.

16.20 (b) If there is a current order for protection, restraining order, or other no contact
16.21 order prohibiting the petitioner from contacting the victims or there has ever been a prior
16.22 order for protection or restraining order prohibiting the petitioner from contacting the
16.23 victims, the petitioner shall attach a copy of the order to the petition.

16.24 Sec. 18. Minnesota Statutes 2008, section 609A.03, subdivision 4, is amended to read:

16.25 Subd. 4. **Hearing.** (a) A hearing on the petition shall be held no sooner than 60
16.26 days after service of the petition. A victim of the offense for which expungement is
16.27 sought has a right to submit an oral or written statement to the court at the time of the
16.28 hearing describing the harm suffered by the victim as a result of the crime and the victim's
16.29 recommendation on whether expungement should be granted or denied. The judge shall
16.30 consider the victim's statement when making a decision.

16.31 (b) The court shall exclude the general public from a hearing on a petition to
16.32 expunge a record relating to a juvenile matter under section 609A.02, subdivision 2, and
16.33 may admit only persons who the court determines have a direct interest in the case, unless
16.34 the hearing on the underlying offense for which expungement is sought was open to the
16.35 public under section 260B.163, subdivision 1, paragraph (c), or other law.

17.1 Sec. 19. Minnesota Statutes 2008, section 609A.03, subdivision 5, is amended to read:

17.2 Subd. 5. **Nature of remedy; standard; ~~firearms restriction~~.** (a) Except as
17.3 otherwise provided by paragraph (b) or (c), expungement of a criminal or delinquency
17.4 record is an extraordinary remedy to be granted only upon clear and convincing evidence
17.5 that it would yield a benefit to the petitioner commensurate with the disadvantages to
17.6 the public and public safety of:

17.7 (1) sealing the record; and

17.8 (2) burdening the court and public authorities to issue, enforce, and monitor an
17.9 expungement order.

17.10 (b) Except as otherwise provided by this paragraph, If the petitioner is petitioning
17.11 for the sealing of a criminal or delinquency record under section 609A.02, subdivision
17.12 3, the court shall grant the petition to seal the record unless the agency or jurisdiction
17.13 whose records would be affected establishes by clear and convincing evidence that the
17.14 interests of the public and public safety outweigh the disadvantages to the petitioner
17.15 of not sealing the record.

17.16 (c) If the petitioner is petitioning for the sealing of a criminal or delinquency record
17.17 under section 609A.02, subdivision 2, clause (1) or (2), the court shall grant the petition
17.18 to seal the record unless the agency or jurisdiction whose records would be affected
17.19 establishes by clear and convincing evidence that the interests of the public and public
17.20 safety outweigh the disadvantages to the petitioner of not sealing the record.

17.21 (d) If the court issues an expungement order it may require that the criminal or
17.22 delinquency record be sealed, the existence of the record not be revealed, and the record
17.23 not be opened except as required under subdivision 7. Records must not be destroyed or
17.24 returned to the subject of the record.

17.25 Sec. 20. Minnesota Statutes 2008, section 609A.03, subdivision 5a, is amended to read:

17.26 Subd. 5a. **Order concerning crimes of violence.** An order expunging the record of
17.27 a conviction or delinquency record for a crime of violence as defined in section 624.712,
17.28 subdivision 5, must provide that the person is not entitled to ship, transport, possess, or
17.29 receive a firearm for the remainder of the person's lifetime. Any person whose record
17.30 of conviction or delinquency record is expunged under this section and who thereafter
17.31 receives a relief of disability under United States Code, title 18, section 925, or whose
17.32 ability to possess firearms has been restored under section 609.165, subdivision 1d, is not
17.33 subject to the restriction in this subdivision.

17.34 Sec. 21. Minnesota Statutes 2008, section 609A.03, subdivision 7, is amended to read:

Subd. 7. **Limitations of order.** (a) Upon issuance of an expungement order related to a charge supported by probable cause, the DNA samples and DNA records held by the Bureau of Criminal Apprehension and collected under authority other than section 299C.105, shall not be sealed, returned to the subject of the record, or destroyed.

(b) Notwithstanding the issuance of an expungement order:

(1) an expunged record may be opened for purposes of a criminal investigation, prosecution, or sentencing, upon an ex parte court order;

(2) an expunged record of a conviction or delinquency proceeding may be opened for purposes of evaluating a prospective employee in a criminal justice agency without a court order; and

(3) an expunged record of a conviction or delinquency proceeding may be opened for purposes of a background study under section 245C.08 unless the court order for expungement is directed specifically to the commissioner of human services.

Upon request by law enforcement, prosecution, or corrections authorities, an agency or jurisdiction subject to an expungement order shall inform the requester of the existence of a sealed record and of the right to obtain access to it as provided by this paragraph. For purposes of this section, a "criminal justice agency" means courts or a government agency that performs the administration of criminal justice under statutory authority.

Sec. 22. Minnesota Statutes 2009 Supplement, section 624.713, subdivision 1, is amended to read:

Subdivision 1. **Ineligible persons.** The following persons shall not be entitled to possess a pistol or semiautomatic military-style assault weapon or, except for clause (1), any other firearm:

(1) a person under the age of 18 years except that a person under 18 may carry or possess a pistol or semiautomatic military-style assault weapon (i) in the actual presence or under the direct supervision of the person's parent or guardian, (ii) for the purpose of military drill under the auspices of a legally recognized military organization and under competent supervision, (iii) for the purpose of instruction, competition, or target practice on a firing range approved by the chief of police or county sheriff in whose jurisdiction the range is located and under direct supervision; or (iv) if the person has successfully completed a course designed to teach marksmanship and safety with a pistol or semiautomatic military-style assault weapon and approved by the commissioner of natural resources;

(2) except as otherwise provided in clause (9), a person who has been convicted of, or adjudicated delinquent or received a stay of adjudication of delinquency or convicted

19.1 as an extended jurisdiction juvenile for committing, in this state or elsewhere, a crime
19.2 of violence. For purposes of this section, crime of violence includes crimes in other
19.3 states or jurisdictions which would have been crimes of violence as herein defined if they
19.4 had been committed in this state;

19.5 (3) a person who is or has ever been committed in Minnesota or elsewhere by
19.6 a judicial determination that the person is mentally ill, developmentally disabled, or
19.7 mentally ill and dangerous to the public, as defined in section 253B.02, to a treatment
19.8 facility, or who has ever been found incompetent to stand trial or not guilty by reason of
19.9 mental illness, unless the person's ability to possess a firearm has been restored under
19.10 subdivision 4;

19.11 (4) a person who has been convicted in Minnesota or elsewhere of a misdemeanor or
19.12 gross misdemeanor violation of chapter 152, unless three years have elapsed since the
19.13 date of conviction and, during that time, the person has not been convicted of any other
19.14 such violation of chapter 152 or a similar law of another state; or a person who is or has
19.15 ever been committed by a judicial determination for treatment for the habitual use of a
19.16 controlled substance or marijuana, as defined in sections 152.01 and 152.02, unless the
19.17 person's ability to possess a firearm has been restored under subdivision 4;

19.18 (5) a person who has been committed to a treatment facility in Minnesota or
19.19 elsewhere by a judicial determination that the person is chemically dependent as defined
19.20 in section 253B.02, unless the person has completed treatment or the person's ability to
19.21 possess a firearm has been restored under subdivision 4. Property rights may not be abated
19.22 but access may be restricted by the courts;

19.23 (6) a peace officer who is informally admitted to a treatment facility pursuant to
19.24 section 253B.04 for chemical dependency, unless the officer possesses a certificate from
19.25 the head of the treatment facility discharging or provisionally discharging the officer from
19.26 the treatment facility. Property rights may not be abated but access may be restricted
19.27 by the courts;

19.28 (7) a person, including a person under the jurisdiction of the juvenile court, who
19.29 has been charged with committing a crime of violence and has been placed in a pretrial
19.30 diversion program by the court before disposition, until the person has completed the
19.31 diversion program and the charge of committing the crime of violence has been dismissed;

19.32 (8) except as otherwise provided in clause (9), a person who has been convicted in
19.33 another state of committing an offense similar to the offense described in section 609.224,
19.34 subdivision 3, against a family or household member or section 609.2242, subdivision
19.35 3, unless three years have elapsed since the date of conviction and, during that time, the

person has not been convicted of any other violation of section 609.224, subdivision 3, or 609.2242, subdivision 3, or a similar law of another state;

(9) a person who has been convicted in this state or elsewhere of assaulting a family or household member and who was found by the court to have used a firearm in any way during commission of the assault is prohibited from possessing any type of firearm for the period determined by the sentencing court;

(10) a person who:

(i) has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

(ii) is a fugitive from justice as a result of having fled from any state to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding;

(iii) is an unlawful user of any controlled substance as defined in chapter 152;

(iv) has been judicially committed to a treatment facility in Minnesota or elsewhere as a person who is mentally ill, developmentally disabled, or mentally ill and dangerous to the public, as defined in section 253B.02;

(v) is an alien who is illegally or unlawfully in the United States;

(vi) has been discharged from the armed forces of the United States under dishonorable conditions; or

(vii) has renounced the person's citizenship having been a citizen of the United States; or

(11) a person who has been convicted of the following offenses at the gross misdemeanor level, unless three years have elapsed since the date of conviction and, during that time, the person has not been convicted of any other violation of these sections: section 609.229 (crimes committed for the benefit of a gang); 609.2231, subdivision 4 (assaults motivated by bias); 609.255 (false imprisonment); 609.378 (neglect or endangerment of a child); 609.582, subdivision 4 (burglary in the fourth degree); 609.665 (setting a spring gun); 609.71 (riot); or 609.749 (harassment and stalking). For purposes of this paragraph, the specified gross misdemeanor convictions include crimes committed in other states or jurisdictions which would have been gross misdemeanors if conviction occurred in this state.

A person who issues a certificate pursuant to this section in good faith is not liable for damages resulting or arising from the actions or misconduct with a firearm committed by the individual who is the subject of the certificate.

The prohibition in this subdivision relating to the possession of firearms other than pistols and semiautomatic military-style assault weapons does not apply retroactively

21.1 to persons who are prohibited from possessing a pistol or semiautomatic military-style
21.2 assault weapon under this subdivision before August 1, 1994.

21.3 The lifetime prohibition on possessing, receiving, shipping, or transporting firearms
21.4 for persons convicted or adjudicated delinquent or received a stay of adjudication of
21.5 delinquency of a crime of violence in clause (2), applies only to offenders who are
21.6 discharged from sentence or court supervision for a crime of violence on or after August
21.7 1, 1993.

21.8 For purposes of this section, "judicial determination" means a court proceeding
21.9 pursuant to sections 253B.07 to 253B.09 or a comparable law from another state.

21.10 Sec. 23. Minnesota Statutes 2008, section 624.713, subdivision 3, is amended to read:

21.11 Subd. 3. **Notice.** (a) When a person is convicted of, or adjudicated delinquent,
21.12 received a stay of adjudication of delinquency, or convicted as an extended jurisdiction
21.13 juvenile for committing, a crime of violence as defined in section 624.712, subdivision 5,
21.14 the court shall inform the defendant that the defendant is prohibited from possessing a
21.15 pistol or semiautomatic military-style assault weapon for the remainder of the person's
21.16 lifetime, and that it is a felony offense to violate this prohibition. The failure of the court
21.17 to provide this information to a defendant does not affect the applicability of the pistol
21.18 or semiautomatic military-style assault weapon possession prohibition or the felony
21.19 penalty to that defendant.

21.20 (b) When a person, including a person under the jurisdiction of the juvenile court, is
21.21 charged with committing a crime of violence and is placed in a pretrial diversion program
21.22 by the court before disposition, the court shall inform the defendant that: (1) the defendant
21.23 is prohibited from possessing a pistol or semiautomatic military-style assault weapon
21.24 until the person has completed the diversion program and the charge of committing a
21.25 crime of violence has been dismissed; (2) it is a gross misdemeanor offense to violate this
21.26 prohibition; and (3) if the defendant violates this condition of participation in the diversion
21.27 program, the charge of committing a crime of violence may be prosecuted. The failure of
21.28 the court to provide this information to a defendant does not affect the applicability of the
21.29 pistol or semiautomatic military-style assault weapon possession prohibition or the gross
21.30 misdemeanor penalty to that defendant.

21.31 Sec. 24. **REVISOR INSTRUCTION; TABLE OF JUVENILE COLLATERAL**
21.32 **SANCTIONS.**

21.33 (a) The revisor of statutes shall publish a table in Minnesota Statutes that contains
21.34 cross-references to state laws that are collateral sanctions imposed on a juvenile as a result

22.1 of an adjudication of delinquency. The revisor shall create a structure that categorizes
22.2 these laws in a useful way to users.

22.3 (b) The revisor shall include appropriate cautionary language with the table,
22.4 including, at a minimum, language that notifies users that:

22.5 (1) the list of collateral sanctions laws is intended to be comprehensive but is not
22.6 necessarily complete;

22.7 (2) the inclusion or exclusion of a collateral sanction is not intended to have any
22.8 substantive legal effect; and

22.9 (3) users must consult the language of each cross-referenced law to fully understand
22.10 the scope and effect of the collateral sanction it imposes.

22.11 (c) The revisor shall consult with legislative staff and the chairs of the senate and
22.12 house committees having jurisdiction over criminal justice to identify laws that impose
22.13 collateral sanctions on a juvenile who has been adjudicated delinquent.

22.14 **EFFECTIVE DATE.** This section is effective the day following final enactment.